

Office of the Secretary, Interior

§ 4.220

(1) The notice must be posted at least 20 days before the hearing date in five or more conspicuous places in the vicinity of the designated place of hearing.

(2) The administrative law judge or Indian probate judge may cause postings in such other places and reservations as he or she deems appropriate.

(3) A certificate showing the date and place of posting must be signed by the person or official who performs the act.

(b) The administrative law judge or Indian probate judge must serve or cause to be served a copy of the notice on each interested party known to the administrative law judge or Indian probate judge and on each attesting witness if a will is offered:

(1) By personal service in sufficient time in advance of the date of the hearing to enable the person served to attend the hearing; or

(2) By mail, addressed to the person at his or her last known address, in sufficient time in advance of the date of the hearing to enable the addressee served to attend the hearing. The administrative law judge or Indian probate judge must cause a certificate, as to the date and manner of the mailing, to be made on the record copy of the notice.

(c) All interested parties, known and unknown, including creditors, will be bound by the decision based on the hearing if they lived near any place of posting during the posting period, whether or not they had actual notice of the hearing. With respect to interested parties not living near the place of posting, a rebuttable presumption of actual notice will arise upon the mailing of the notice at a reasonable time before the hearing, unless the notice is returned by the postal service to the office of the administrative law judge or Indian probate judge unclaimed by the addressee.

(d) When a record reveals that a tribe has a statutory option to purchase interests of a decedent:

(1) The administrative law judge or Indian probate judge must notify the tribe of the pendency of a proceeding; and

(2) The certificate of mailing of notice of probate hearing or of a final decision in probate to the tribe at its

record address will be conclusive evidence that the tribe had notice of the decedent's death and of the probate proceedings.

§ 4.217 Contents of notice.

(a) In the notice of a formal hearing, the administrative law judge or Indian probate judge must:

(1) Specify that, at the stated time and place, the administrative law judge or Indian probate judge will take testimony to determine the heirs of the decedent (naming him or her) and, if a will is offered for probate, testimony as to the validity of the will (describing it by date);

(2) Name all known probable heirs of the decedent, and, if a will is offered for probate, the beneficiaries under the will and the attesting witnesses to the will;

(3) Cite this subpart as the authority and jurisdiction for holding the hearing;

(4) Inform all persons having an interest in the estate of the decedent, including persons having claims against the estate, to be present at the hearing or their rights may be lost by default; and

(5) State that the hearing may be continued to another time and place.

(b) A continuance may be announced either at the original hearing by the administrative law judge or Indian probate judge or by an appropriate notice posted at the announced place of hearing on or before the announced hearing date and hour.

DEPOSITIONS, DISCOVERY, AND PREHEARING CONFERENCE

SOURCE: 70 FR 11817, Mar. 9, 2005, unless otherwise noted.

§ 4.220 Production of documents for inspection and copying.

(a) An interested party may make a written demand to produce documents for inspection and copying or photographing. This demand:

(1) May be made at any stage of the proceeding before the conclusion of the formal hearing;